

Article 22A.

Use of Poisons and Pesticides.

§ 113-300.1. Use of poisons and pesticides in general.

No one may take any wild animal or bird with the use of any poison or pesticide except as provided in this Article. The taking of fish by the use of poison is governed by G.S. 113-261 and G.S. 113-262, and the prohibitions of those sections against the taking of wildlife by poison apply unless specifically permitted under this Article. Otherwise, the Wildlife Resources Commission may, by rules consistent with the North Carolina Pesticide Law of 1971 and the Structural Pest Control Act of 1955, regulate, prohibit, or restrict the use of poisons or pesticides upon or severely affecting wildlife resources. (1979, c. 830, s. 1; 1979, 2nd Sess., c. 1285, s. 9; 1987, c. 827, s. 98.)

§ 113-300.2. Declaring wild animal or bird a pest; concurrence of Wildlife Resources Commission required before poison or pesticide may be used.

(a) When there is a factual basis for the declaration, any wild animal or bird may be declared a pest by:

- (1) The Commissioner of Agriculture under the Structural Pest Control Act of North Carolina of 1955, as amended, in Article 4C of Chapter 106 of the General Statutes, in accordance with any regulations or restrictions imposed by the Structural Pest Control Committee; or
- (2) The Pesticide Board under the North Carolina Pesticide Law of 1971, as amended, in Article 52 of Chapter 143 of the General Statutes.

(b) When a wild animal or bird is declared a pest, the Commissioner of Agriculture or the Pesticide Board, as the case may be, must notify the Wildlife Resources Commission in writing of the action taken; the areas in which the declaration is effective; the type, amount, and mode of application of any poison or pesticide proposed for use against the pest; and other information pertinent to the declaration.

(c) Upon receiving notification under subsection (b), the Wildlife Resources Commission may:

- (1) Hold a timely public hearing on the question whether it should concur in the declaration that the wild animal or bird is a pest and should be open to taking with the type or types of poison or pesticide specified or authorized in the notice, in the areas and under the circumstances specified. After holding the public hearing the Wildlife Resources Commission must decide, within 60 days after receiving the notice under subsection (b), whether it concurs or refuses to concur in the declaration that the wild animal or bird is a pest.
- (2) Take no action. In this event, 60 days after the Wildlife Resources Commission receives notice of the declaration under subsection (b), the concurrence of the Wildlife Resources Commission will occur automatically.

(d) Upon the concurrence of the Wildlife Resources Commission in the declaration under subsection (b), the wild animal or bird may be taken with the use of any poison or pesticide specified in the notice in accordance with applicable restrictions in statutes and regulations and in accordance with any special restrictions imposed by the Commissioner of Agriculture, the Structural Pest Control Committee, or the Pesticide Board. If the

Wildlife Resources Commission refuses to concur, no poison or pesticide may be used to take the wild animal or bird.

(e) After holding a public hearing on the subject, the Wildlife Resources Commission may rescind its concurrence to a declaration under subsection (b) or grant its concurrence previously withheld.

(f) With the approval of the Structural Pest Control Committee or the Pesticide Board, as the case may be, the Wildlife Resources Commission may grant a qualified concurrence to a declaration, imposing further restrictions as to the use of poison or pesticide in taking the wild animal or bird in question.

(g) Notwithstanding any other provision of law, it is lawful to use any pesticide registered by the Pesticide Board to control any species of mole other than the Star-Nosed Mole (*Condylura cristata parva*), provided that (i) all rules regulating the application of pesticides adopted by the Pesticide Board are followed and (ii) pesticides used to control these species are applied in a manner that minimizes hazards to nontarget species. (1979, c. 830, s. 1; 2014-103, s. 9.)

§ 113-300.3. Penalties for violations of Article; repeated offenses.

(a) Each day in which poisons or pesticides are used unlawfully in taking wild animals or birds constitutes a separate offense.

(b) Any taking of a wild animal or bird in willful violation of this Article or in willful violation of any restrictions imposed by the Commissioner of Agriculture, the Structural Pest Control Committee, the Pesticide Board, or the Wildlife Resources Commission is punishable under G.S. 113-262(a). For the purposes of prosecutions under that subsection, the term "poison" includes pesticides.

(c) Any person taking a wild animal or bird declared a pest with the use of poison or pesticide who neglects to observe applicable restrictions imposed by the Commissioner of Agriculture, the Structural Pest Control Committee, the Pesticide Board, or the Wildlife Resources Commission is guilty of a Class 3 misdemeanor, unless a greater penalty is prescribed for the offense in question. (1979, c. 830, s. 1; 1993, c. 539, s. 865; 1994, Ex. Sess., c. 24, s. 14(c).)

§ 113-300.4. Reserved for future codification purposes.